

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

May 8, 2009

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.:09KD-039

KAUAI

Grant of Perpetual, Non-Exclusive Easement to County of
Kauai for Bike/Pedestrian Purposes, and Issuance of a Right-
of-Entry Permit, Kapaa, Kawaihau, Kauai, Tax Map Key: (4) 4-
6-14:portion of 30.

APPLICANT:

County of Kauai, whose mailing address is 4444 Rice Street, Suite
175, Lihue, Hawaii 96766

LEGAL REFERENCE:

Section 171-95, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Kapaa, Kawaihau, Kauai,
identified by Tax Map Key: (4) 4-6-14:portion of 30, as shown on
the attached map labeled Exhibit A and B-1, B-2 & B-3.

AREA:

0.49 acres, more or less.

ZONING:

State Land Use District: Urban
County of Kauai CZO: Residential

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State
Constitution: NO

CURRENT USE STATUS:

Vacant and unencumbered.

CHARACTER OF USE:

Right, privilege and authority to construct, uses, maintain and repair a bike/pedestrian right-of-way over and across State-owned land.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

Gratis

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The Final Environmental Assessment for the subject project was published in the OEQC's Environmental Notice on April 23, 2007 with a finding of no significant impact (FONSI).

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

REMARKS:

The Board of Land and Natural Resources at its December 9, 2005 meeting under Item D-3 approved to recommend to the Governor a set-aside to the County of Kauai for developing affordable housing on several State parcels. The Board's approval requires the County of Kauai to submit County Council approval, funding commitment, development plans, construction plans, government permits and approvals, and construction contract. At this time the set aside has not been completed.

Tax Map Key: (4) 4-6-14:30 is one of the parcels identified. Within Parcel 30 is an existing, undocumented, pedestrian right-of-way running from the beginning of Kawaihau Road along the eastside of Hundley Tract Subdivision to Iwaena Road. This pedestrian path does not meet ADA standards. The County of Kauai's Lydgate Park to Lihi Park Bike and Pedestrian Project will realign this existing pedestrian path to conform to ADA standards. The Lydgate Park to Lihi Park Bike and Pedestrian Project will be partially funded by Federal Highway Funds and qualifies for Federal Stimulus Funds.

By letter dated March 25, 2009 from Donald Fujimoto, County Engineer to Eugene Jimenez, Director of County Housing Agency, Mr. Jimenez concurred on the issuance of the bike/pedestrian easement.

This path (or easement) will also benefit the County Housing Agency

affordable housing project in providing pedestrian access to Kawaihau Road.

The County of Kauai has requested a right-of-entry permit for management, planning, construction, and maintenance purposes because this project qualifies for Federal Stimulus Funds and it is necessary to start construction of the bike/pedestrian path (or easement) as soon as possible.

The following Agencies were solicited for comments and no comments were received:

County Agencies:

Planning Department, Public Works and Department of Water

State Agencies:

Historic Preservation and Department of Transportation-Highways Division

The following Agencies responded:

Department of Health: We have reviewed the subject proposal submitted and have no environmental health concerns to offer for your consideration at this time.

Office of Hawaiian Affairs: See Exhibit C

RECOMMENDATION: That the Board:

1. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a perpetual non-exclusive easement to County of Kauai covering the subject area for Bike/Pedestrian purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current perpetual easement document form, as may be amended from time to time;
 - B. Review and approval by the Department of the Attorney General; and
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
2. Authorize the issuance of a right-of-entry permit to the County of Kauai, for management, planning, construction, and maintenance purposes, which are by this reference incorporated herein and further subject to the following:

- A. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time; and
- B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



for Tommy Oi
Kauai District Land Agent

APPROVED FOR SUBMITTAL:

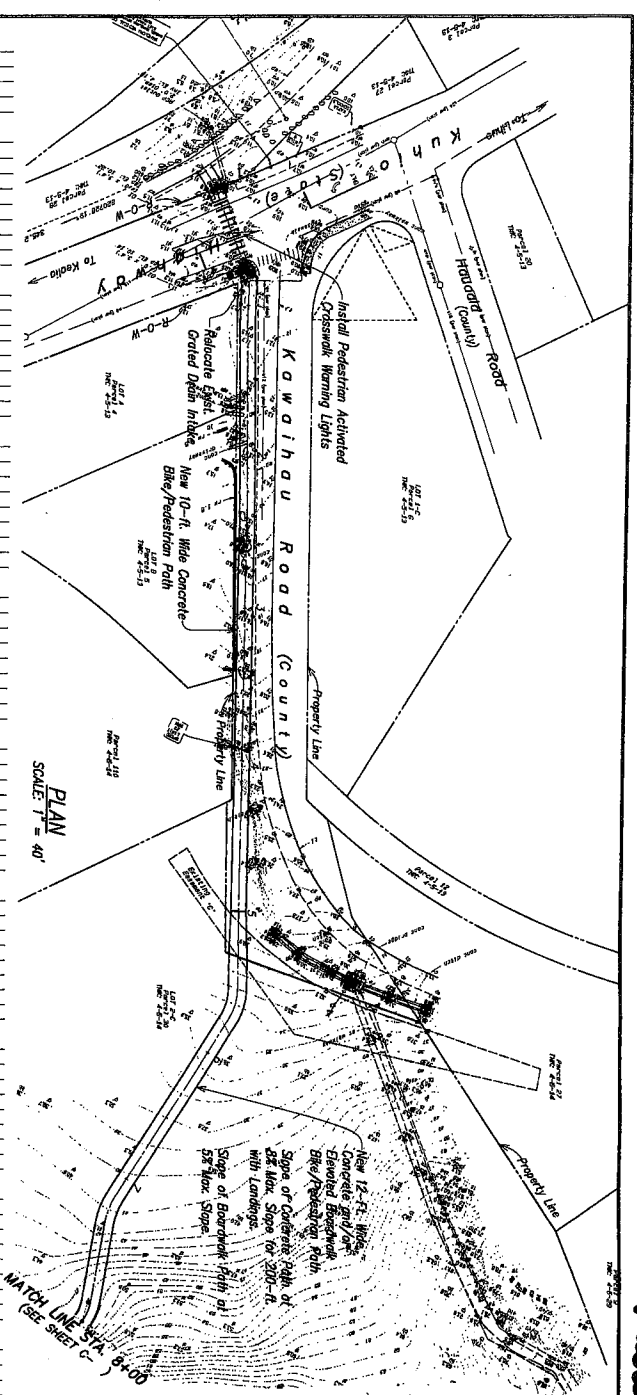


Laura H. Thielen, Chairperson

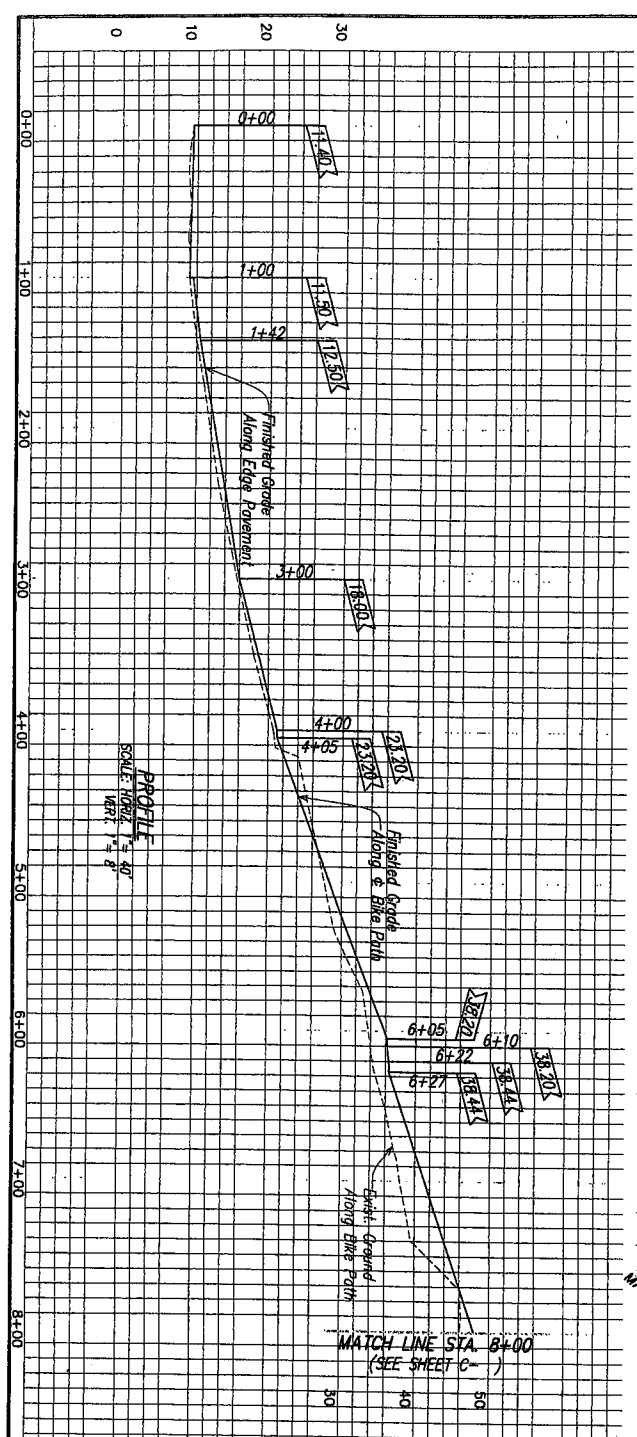


PROJECT LOCATION

FEED NO.	STATE	FEED NO.	SHEET NO.	TOTAL SHEETS
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PLAN
SCALE 1" = 40'



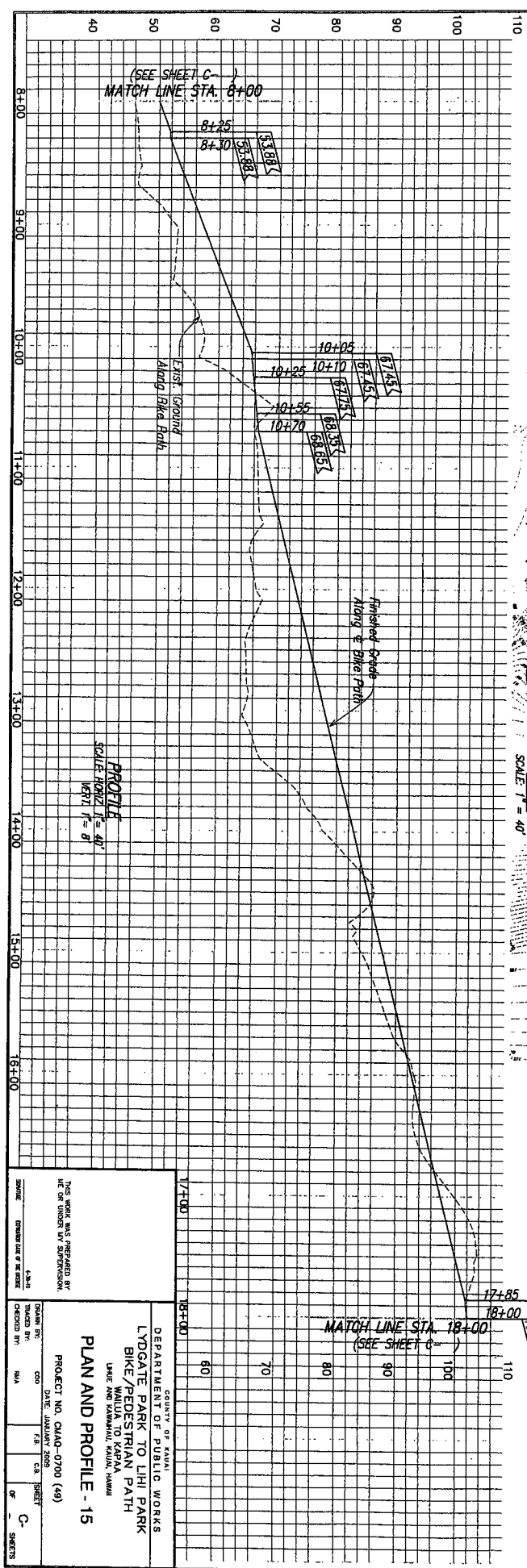
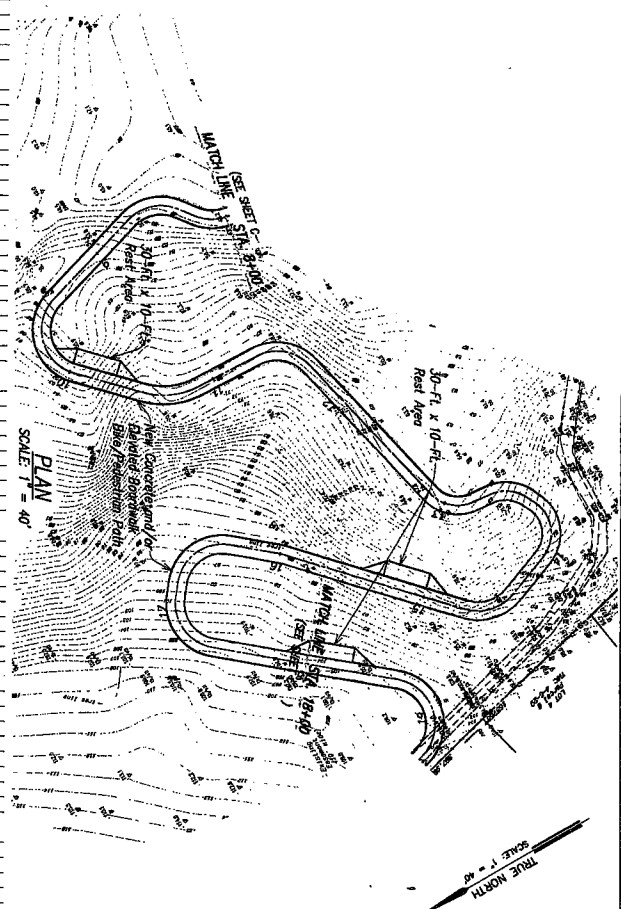
PROFILE
SCALE HORIZ. 1" = 40'
VERT. 1" = 8'

THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION.		COUNTY OF KAUAI DEPARTMENT OF PUBLIC WORKS LYDGADE PARK TO LIH PARK BIKE/PEDESTRIAN PATH WAILUA TO KAPAA LINE AND VARIATION, KAUAI, HAWAII	
PROJECT NO. CMAC-0700 (49)		PLAN AND PROFILE - 14	
DRAWN BY: [] CHECKED BY: []	DATE: JANUARY 2009	SHEET NO. [] OF [] SHEETS	SHEET NO. [] OF [] SHEETS

EXHIBIT "B-1"

REV. ROAD	STATE	PROJ. NO.	PROJ. YEAR	SHEET NO.	TOTAL SHEETS
HAWAII		DMAP-0700(49)	2009		

EXHIBIT "B-2"



THIS WORK WAS PREPARED BY
ME OR UNDER MY SUPERVISION.

DATE: 01/20/09
SHEET NO. 49
PROJECT NO. DMAP-0700 (49)

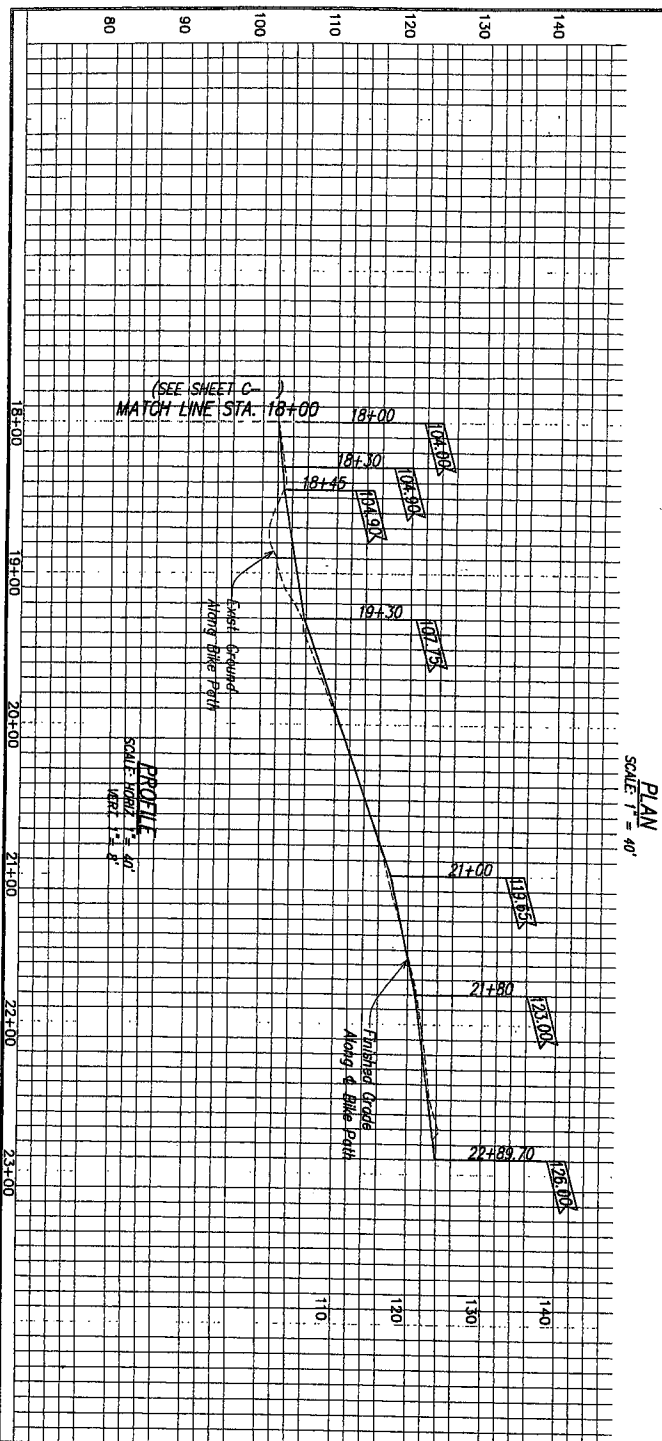
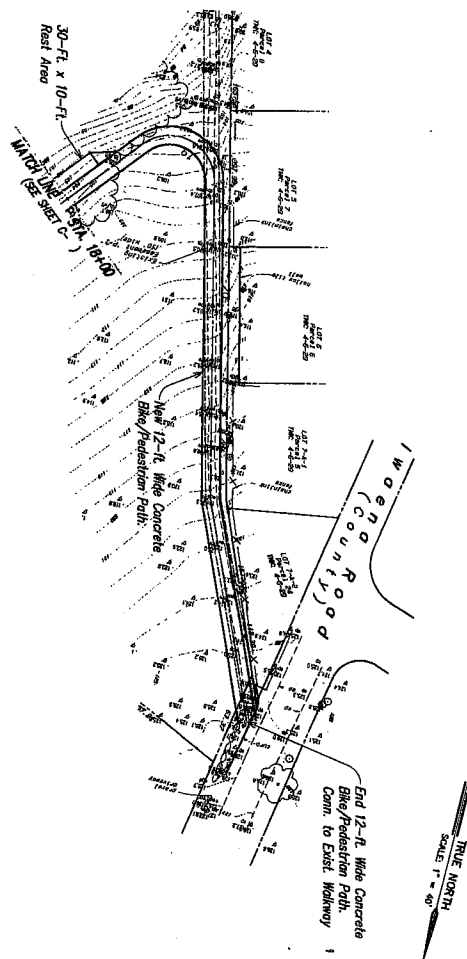
DEPARTMENT OF PUBLIC WORKS
LYDGATE PARK TO LIH PARK
BIKE/PEDESTRIAN PATH
WAILUA TO KAPAA
LINE AND VERTICAL, KAUAI, HAWAII

PLAN AND PROFILE - 15

DESIGNED BY: SVA
CHECKED BY: SVA
DATE: 01/20/09
SHEET NO. 49
PROJECT NO. DMAP-0700 (49)

FED. ROAD DIST. NO.	STATE	FED. AID PROJ. NO.	FISCAL YEAR	SHEET NO.	TOTAL SHEETS
HAWAII	HAW.	CMAQ-0700(49)	2009	-	-

EXHIBIT "B-3"



THIS WORK WAS PREPARED BY
ME OR UNDER MY SUPERVISION

DEPARTMENT OF PUBLIC WORKS
COUNTY OF KAUAI
LYDGATE PARK TO LIHI PARK
BIKE/PEDESTRIAN PATH
WALLILA TO KAPAA
ULUKE AND KAWAHAWA, KAUAI, HAWAII
PLAN AND PROFILE - 16

PROJECT NO. CMAQ--0700 (49)

2004/2005 **CONTRIBUTION RATE OF THE UNITED STATES**

DRAWN BY:	COO	F.B.	C.S.	SHEET
TRACED BY:				
CHECKED BY:	PSA			

PHONE (808) 594-1888

FAX (808) 594-1865



STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
711 KAPI'OLANI BOULEVARD, SUITE 500
HONOLULU, HAWAII 96813

HRD09/4260

April 16, 2009

Tommy Oi
Kaua'i District Land Agent
Department of Land and Natural Resources
Land Division
3060 Eiwa Street, Room 205A
Līhu'e, HI 96766

PM 1:28:19
APR 20 '09

RE: Request for comments on a proposed grant of a perpetual, non-exclusive easement to the County of Kaua'i for bike/pedestrian purposes, with immediate right-of-entry, Kapa'a, Kawaihau, Kaua'i; TMK: 4-6-014: 030; Ref. No.: 09KD-039

CLERK KOLE ROVO

Aloha e Tommy Oi,

The Office of Hawaiian Affairs (OHA) is in receipt of the above-mentioned letter dated April 3, 2008. The proposed easement and access would allow the County of Kaua'i to construct, use, maintain and repair a right-of-way over and across approximately 0.49 acres of ceded lands. This would further allow for the expedited construction of a bike/pedestrian path using Federal Stimulus Funds. OHA apologizes for the delayed response and offers the following comments.

While we support the intent of this proposal, OHA seeks assurances that should iwi kūpuna or Native Hawaiian cultural or traditional deposits be found during the construction of the project, work will cease, and the appropriate agencies will be contacted pursuant to applicable law.

Also, because these are ceded lands, we also seek assurances that language in the easement for management by the County will reflect that the lands are ceded. For this reason, OHA questions the language of the Recommendation to the Board for section 1.B. that allows for the possibility that the Grantee could sell, assign, convey or otherwise transfer the easement.

EXHIBIT "C"

Tommy Oi, Kaua'i District Land Agent
April 16, 2009
Page 2

Thank you for the opportunity to comment and for the detailed submission that was sent directly to the Honolulu office for review. If you have further questions, please contact Heidi Guth at (808) 594-1962 or e-mail her at heidig@oha.org.

'O wau iho nō me ka 'oia 'i 'o,



Clyde W. Nāmu'o
Administrator

C: OHA Kaua'i Community Resource Coordinator

EXHIBIT " C "